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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,155	09/06/2004	Jeffrey C Hays	4473P	1804

7590 02/22/2006
Lloyd W Sadler
Snell & Wilmer LLP
15 West South Temple
Suite 1200
Salt Lake City, UT 84101

EXAMINER

GAUTHIER, GERALD

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/507,155

Applicant(s)

HAYS, JEFFREY C

Examiner

Gerald Gauthier

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claim(s) 1-4** are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. (US 6,463,462 B1) in view of Finnigan (US 5,687,220).

Regarding **claim(s) 1**, Smith discloses a method for sending an automatic telephone message (FIG. 1 and column 1, lines 6-16), comprising:

- (A) entering a message (column 4, lines 19-24);
- (D) placing an automatic call at about said specified time for delivery (column 6, lines 51-59);
- (C) specifying a time for delivery of said message (column 6, lines 5-8);

(E) announcing said automatic call to said recipient (column 6, lines 51-59);

(F) recording said recipient's response (column 7, lines 1-8); and

(G) storing said message and said response (column 7, lines 1-8).

Smith discloses an automated method for delivery of messages and processing of message responses but fails to disclose identifying a recipient by a voice recognition process recognizing instructions received from a user.

However, Finnigan teaches:

(B) identifying a recipient by a voice recognition process recognizing one or more oral instructions received from a user (column 4, lines 1-9).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Smith using the teaching of a voice recognition process as taught by Finnigan.

This modification would enable the system to identify a recipient by a voice recognition process recognizing instructions received from a user so that the system would provide a better service to the user.

Regarding **claim(s) 2**, Smith discloses a method, further comprising: (H) sending said recipient's response (column 7, lines 12-20).

Regarding **claim(s) 3**, Smith discloses a method, further comprising: reviewing said message (column 7, lines 20-23).

Regarding **claim(s) 4**, Smith discloses a method, further comprising: prompting said recipient to provide a response (column 6, line 62 to column 7, line 1).

Response to Arguments

4. Applicant's arguments with respect to **claim(s) 1-4** have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2645

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


GERALD GAUTHIER
PATENT EXAMINER

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February 10, 2006


FAN TSANG
SUPERVISORY PATENT EXAMINER
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